

### REMARKS

The application has been reviewed in light of the Final Office Action mailed October 31, 2003, and the Advisory Action mailed January 13, 2004. Claims 1, 2, 4-10, and 12-21 were pending at the time of the office action. Claims 1, 2, 4-10, and 12-21 were rejected. Claims 3 and 11 were previously cancelled by Applicants without prejudice or disclaimer. Applicants have amended Claims 1, 8, and 15 without prejudice or disclaimer. Applicants have canceled Claims 5, 10, and 17.

Applicants respectfully request reconsideration and favorable action in this case. **Please do not enter the amendment presented in the Response to Final Office Action filed December 31, 2003. The amendments listed in this Request for Continued Examination include all the desired changes previously presented in the after final amendment filed December 31, 2003.**

### Comments Related to the Abstract

Examiner included a reminder regarding "the proper content of an abstract of the disclosure" without specifically objecting to any portion of the abstract of the present disclosure. Applicants believe that the content of the abstract of the present application is proper.

### Objections to the Specification

Examiner has objected to the displaying of "substantially real-time status information" as recited in Claims 1, 2, 4-10, and 12-21 as not having proper antecedent basis in the specification. Applicants have amended Claims 1, 8 and 15 to overcome this objection. Applicants request reconsideration and withdrawal of this objection.

### Claim Objections

The Examiner objected to Claim 1 due to informalities. Applicants have amended Claim 1 accordingly.

### Rejections under 35 U.S.C. §112

Claims 1, 2, 4-10, and 12-21 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, Examiner has argued that the specification does not set forth the specific test or set of factors to be used for the "ship criteria."

Applicants have submitted a corrected paragraph above to further clarify the proper scope of "order ship" criteria and "order fill" criteria. Applicants submit the one of ordinary skill in the art would understand and the specification supports a ship criteria (or an order *shipping* criteria or order ship criteria) to encompass various factors relevant to determining whether an individual product or product order (which may include multiple products) may be shipped or is otherwise available for shipment. These factors include whether an order has been filled (also referred to as order fill or order fulfillment factors), availability of a carrier, and the type of transport appropriate for a particular order. See p. 16, lines 10-23, p. 20, lines 19-23, p. 26, lines 23-26. One of ordinary skill would understand that "order fill" (or order fulfillment) factors encompass factors relevant to the status of the manufacture and assembly of products associated with an order.

Examiner, has also objected to the terms "relative" and "substantially" as used in Claims 1, 8, and 15 and Claims 1, 2, 4-10, and 12-21. Applicants have amended Claims 1, 8, and 15 to further clarify the present invention.

Applicants request reconsideration and withdrawal of the §112 rejections to Claims 1, 2, 4-9, and 12-21.

#### **Rejections under 35 U.S.C. §102**

Claims 1, 2, 4, 6-9, 14-16, 18, and 21 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,336,053 issued to Robert A. Beatty ("Beatty"). Applicants respectfully traverse and submit that does not disclose, teach, or suggest every element of the claimed invention. Among other elements, Beatty fails to teach a simulator element (or simulation) and the *dynamic* reallocation of resources as recited in Independent Claims 1, 8, and 15. Accordingly, Applicants request reconsideration and the withdrawal of the §102

rejections to Claims 1, 8, 15 and Claims 2, 4, 6, 7, 9, 14, 16, 18, and 21 which depend therefrom.

**Rejections under 35 U.S.C. §103**

Claims 5, 10, 12, 13, 17, 19, and 20 were rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Beatty as applied to Claims 1, 8, 9, 15, and 16 above, and further in view of U.S. Patent 5,586,021 issued to Hugh E. Fargher et al. ("Fargher"). Applicants respectfully traverse and submit that the combination of Beatty and Fargher do not teach, suggest, or disclose every limitation of the present invention.

As discussed above, Beatty does not disclose, teach or suggest the simulator element (or simulation step) and the *dynamic* reallocation of resources as recited in Independent Claims 8, and 15. Claim 5 has been canceled.

Additionally, while Fargher generally teaches the use of a simulator in production planning. However, the simulation taught by Fargher does not influence work in progress and can be used only to "update cycle time estimates used by the planner 10, and to warn of tardy work which may cause replanning." See Col. 6, lines 24-26. Accordingly, Fargher does not teach the *dynamic* reallocation of resources as recited by Claims 8, and 15 and thus the combination of Beatty and Fargher cannot render obvious Claims 12, 13 and 20 which depend therefrom. Applicants request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 to Claims 12, 13 and 20.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of the claims as amended.

Applicants enclose a check in the amount of \$770.00 for the RCE fee required under 37 C.F.R. 1.17(e). Applicants believe no further fee is due for this response, however, if any additional fees are due, the Commissioner is hereby authorized to charge any necessary fees to Deposit Account No. 02-0383 of Baker Botts L.L.P.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicants



Brian E. Szymczak  
Reg. No. 47,120

Date: 1/28/04

Correspondence Address:

Customer No. **23640**

512.322.2548  
512.322.8340 (Fax)